

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JASMINE BESISO and MYRONE POWELL,

Plaintiffs,

-against-

MATT BARNES and DEMARCUS COUSINS,

Defendants.
-----X

COMPLAINT

16 Cv. 9461

**JURY TRIAL
DEMANDED**

Plaintiffs, JASMINE BESISO and MYRONE POWELL, by their attorneys, **LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC**, complaining of the Defendants, respectfully alleges, upon information and belief:

PRELIMINARY STATEMENT

1. Plaintiffs bring this action for compensatory damages and punitive damages arising out of an altercation that took place on December 5, 2016.

JURISDICTION

2. Jurisdiction is proper based upon 28 U.S.C.A. § 1332(1) and the amount in controversy exceeds \$75,000.00.

VENUE

3. Venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. 1391(b)(2).

JURY DEMAND

4. Plaintiff respectfully demands a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38(b).

PARTIES

5. Plaintiff, JASMINE BESISO, is, and has been, at all relevant times, a resident of the State of New York.

6. Plaintiff, MYRONE POWELL, is, and has been, at all relevant times, a resident of the State of New York.

7. Defendant, MATT BARNES, is, and has been, at all relevant times, a professional basketball player with the Sacramento Kings of the National Basketball Association.

8. Defendant, MATT BARNES, is and has been, at all relevant times, a resident of the State of California.

9. Defendant, DEMARCUS COUSINS, is, and has been, at all relevant times, a professional basketball player with the Sacramento Kings of the National Basketball Association.

10. Defendant, DEMARCUS COUSINS, is, and has been, at all relevant times, a resident of the State of California.

FACTS

11. On December 5, 2016, and at all times mentioned herein, Plaintiffs JASMINE BESISO and MYRONE POWELL, were guests at Avenue Nightclub located at 116 10th Avenue, New York, New York.

12. On December 5, 2016, and at all times mentioned herein, Defendants MATT BARNES and DEMARCUS COUSINS were guests at Avenue Nightclub located at 116 10th Avenue, New York, New York.

13. At approximately 3:00am, a commotion amongst Defendants, and those with them in the nightclub's VIP area, began. Plaintiffs were not part of this group.

14. Shortly thereafter, Defendant MATT BARNES intentionally approached Plaintiff JASMINE BESISO in a harmful and offensive manner.

15. Immediately thereafter, Defendant MATT BARNES intentionally grabbed Plaintiff JASMINE BESISO by the neck and began choking her.

16. Plaintiff MYRONE POWELL observed Defendant MATT BARNES intentionally choking Plaintiff JASMINE BESISO and attempted to come to her aid.

17. During the process of Plaintiff MYRONE POWELL coming to Plaintiff JASMINE BESISO's aid, Defendant DEMARCUS COUSINS intentionally approached Plaintiff POWELL in a harmful and offensive manner.

18. Immediately thereafter, Defendant DEMARCUS COUSINS intentionally punched Plaintiff MYRONE POWELL in the face.

19. Defendant MATT BARNES then released his grip on Plaintiff JASMINE BESISO's neck and intentionally elbowed her in the face knocking her unconscious.

20. Thereafter, Defendant MATT BARNES intentionally approached Plaintiff MYRONE POWELL in a harmful and offensive manner joining Defendant DEMARCUS COUSINS.

21. Immediately thereafter, Plaintiff MYRONE POWELL was taken to the ground by Defendants MATT BARNES and Defendant DEMARCUS COUSINS who both proceeded to intentionally punch and kick Plaintiff POWELL in the head, torso and lower body.

22. The New York City Police Department was notified of the assault and battery and arrived at the scene shortly thereafter.

23. By the time the New York City Police Department arrived, Defendants MATT BARNES and DEMARCUS COUSINS had fled the scene.

24. Before leaving the area, video footage captured Defendants MATT BARNES and DEMARCUS COUSINS boasting about the alleged assault and battery.

25. Plaintiffs JASMINE BESISO and MYRONE POWELL suffered severe personal injuries as a result of the intentional assaults and batteries by Defendants and were treated for same at Lenox Hill Hospital.

**AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANT MATT
BARNES FOR ASSAULT PURSUANT TO NEW YORK STATE LAW**

26. Plaintiff JASMINE BESISO repeats, reiterates, and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein and at length.

27. As a result of Defendant MATT BARNES' conduct, Plaintiff JASMINE BESISO was intentionally placed into apprehension of imminent harmful and offensive contact.

28. No actions on the part of the Plaintiff JASMINE BESISO contributed to the occurrence alleged herein in any manner whatsoever.

29. That by reason of the foregoing, Plaintiff JASMINE BESISO was caused to sustain serious injuries and to suffer pain, shock and mental anguish; these injuries and their effects will be permanent; as a result of said injuries Plaintiff has been caused to incur and will continue to incur expenses for medical care and attention; and as a result Plaintiff was and will continue to be rendered unable to perform normal activities and duties and in consequence has sustained a loss therefrom.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANT MATT
BARNES FOR BATTERY PURSUANT TO NEW YORK STATE LAW**

30. Plaintiff JASMINE BESISO repeats, reiterates, and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein and at length.

31. Defendant MATT BARNES made intentional bodily contact of offensive nature with Plaintiff JASMINE BESISO when he choked and elbowed her in the face.

32. No actions on the part of the Plaintiff JASMINE BESISO contributed to the occurrence alleged herein in any manner whatsoever.

33. That by reason of the foregoing, Plaintiff JASMINE BESISO was caused to sustain serious injuries and to suffer pain, shock and mental anguish; these injuries and their effects will be permanent; as a result of said injuries Plaintiff has been caused to incur and will continue to incur expenses for medical care and attention; and as a result Plaintiff was and will continue to be rendered unable to perform normal activities and duties and in consequence has sustained a loss therefrom.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANT
DEMARCUS COUSINS FOR ASSAULT PURSUANT TO NEW YORK STATE
LAW

34. Plaintiff MYRONE POWELL repeats, reiterates, and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein and at length.

35. As a result of Defendant DEMARCUS COUSINS' conduct, Plaintiff MYRONE POWELL was intentionally placed into apprehension of imminent harmful and offensive conduct.

36. No actions on the part of Plaintiff MYRONE POWELL contributed to the occurrence alleged herein in any manner whatsoever.

37. That by reason of the foregoing, Plaintiff MYRONE POWELL was caused to sustain serious injuries and to suffer pain, shock and mental anguish; these injuries and their effects will be permanent; as a result of said injuries Plaintiff has been caused to incur and will continue to incur expenses for medical care and attention; and as a result Plaintiff was and will continue to be rendered unable to perform normal activities and duties and in consequence has sustained a loss therefrom.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANT DEMARCUS
COUSINS FOR BATTERY PURSUANT TO NEW YORK STATE LAW

38. Plaintiff MYRONE POWELL repeats, reiterates, and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein and at length.

39. Defendant DEMARCUS COUSINS, made intention bodily contact of an offensive nature with Plaintiff MYRONE POWELL when he punched him in the face and subsequently struck and kicked him in the head, torso, and lower body.

40. That by reason of the foregoing, Plaintiff MYRONE POWELL was caused to sustain serious injuries and to suffer pain, shock and mental anguish; these injuries and their effects will be permanent; as a result of said injuries Plaintiff has been caused to incur and will continue to incur expenses for medical care and attention; and as a result Plaintiff was and will continue to be rendered unable to perform normal activities and duties and in consequence has sustained a loss therefrom.

**AS AND FOR A FIFTH CAUSE OF ACTION AGAINST MATT BARNES FOR
ASSAULT PURSUANT TO NEW YORK STATE LAW**

41. Plaintiff MYRONE POWELL repeats, reiterates, and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein and at length.

42. As a result of Defendant MATT BARNES' conduct, Plaintiff MYRONE POWELL was intentionally placed into apprehension of imminent harmful and offensive conduct.

43. No action on the part of Plaintiff MYRONE POWELL contributed to the occurrence alleged herein any in manner whatsoever.

44. That by reason of the foregoing, Plaintiff MYRONE POWELL was caused to sustain serious injuries and to suffer pain, shock and mental anguish; these injuries and their effects will be permanent; as a result of said injuries Plaintiff has been caused to incur and will continue to incur expenses for medical care and attention; and as a result Plaintiff was and will continue to be rendered unable to perform normal activities and duties and in consequence has sustained a loss therefrom.

**AS AND FOR A SIXTH CAUSE OF ACTION AGAINST MATT BARNES FOR
BATTERY PURSUANT TO NEW YORK STATE LAW**

45. Plaintiff MYRONE POWELL repeats, reiterates, and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein and at length.

46. Defendant MATT BARNES, made intentional bodily contact of an offensive nature with Plaintiff MYRONE POWELL when he punched and kicked him in the head, torso and lower body.

47. No action on the part of Plaintiff MYRONE POWELL contributed to the occurrence alleged herein in any manner whatsoever.

48. That by reason of the foregoing, Plaintiff MYRONE POWELL was caused to sustain

serious injuries and to suffer pain, shock and mental anguish; these injuries and their effects will be permanent; as a result of said injuries Plaintiff has been caused to incur and will continue to incur expenses for medical care and attention; and as a result Plaintiff was and will continue to be rendered unable to perform normal activities and duties and in consequence has sustained a loss therefrom.

**AS AND FOR A SEVENTH CAUSE OF ACTION AGAINST MATT BARNES FOR
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS PURSUANT TO NEW
YORK STATE LAW**

49. Plaintiff JASMINE BESISO repeats, reiterates, and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein and at length.

50. Defendant MATT BARNES, by his intentional and outrageous conduct in choking and elbowing Plaintiff JASMINE BESISO intended to cause severe emotional distress and did so to Plaintiff BESISO.

51. No action on the part of Plaintiff JASMINE BESISO contributed to the occurrence alleged herein in any manner whatsoever.

52. That by reason of the foregoing, Plaintiff JASMINE BESISO was caused to sustain severe emotional distress the effects of which will be permanent and for which Plaintiff will incur expenses for medical care and attention.

**AS AND FOR A EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS MATT
BARNES AND DEMARCUS COUSINS FOR INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS PURSUANT TO NEW YORK LAW**

53. Plaintiff MYRONE POWELL repeats, reiterates, and realleges each and every allegation set forth above with the same force and effect as if fully set forth herein and at length.

54. Defendants MATT BARNES and DEMARCUS COUSINS, by their intentional and outrageous conduct in punching and kicking Plaintiff MYRONE POWELL while prone on the ground, intended to cause severe emotional distress and did so to Plaintiff POWELL.

55. Defendants MATT BARNES and DEMARCUS COUSINS, by their intentional

and outrageous conduct in boasting about the alleged assault and battery alleged herein was intended to cause severe emotional distress and did so to the Plaintiff POWELL.

56. No action on the part of the Plaintiff MYRONE POWELL contributed to the occurrence alleged herein in any manner whatsoever.

57. That by reason of the foregoing, Plaintiff MYRONE POWELL was caused to sustain severe emotional distress the effects of which will be permanent and for which Plaintiff will incur expenses for medical care and attention.

WHEREFORE, Plaintiffs respectfully request judgment against the Defendants as follows:

- i. An order awarding compensatory damages in an amount to be determined at trial;
- ii. An order awarding punitive damages in an amount to be determined at trial;
- iii. And an Order directing such other and further relief as the Court may deem just and proper.

Dated: New York, New York
December 7, 2016

Respectfully submitted,

LAW OFFICES OF MICHAEL S. LAMONSOFF, PLLC
Counsel for the Plaintiffs

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